

REFERENCE TITLE: Arizona board of surgical assistants

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

SB 1294

Introduced by
Senator Leff

AN ACT

AMENDING SECTION 32-1406, ARIZONA REVISED STATUTES; AMENDING TITLE 32, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 43; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3017.01; RELATING TO THE BOARD OF SURGICAL ASSISTANTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 32-1406, Arizona Revised Statutes, is amended to
3 read:

4 32-1406. Arizona medical board fund

5 A. The Arizona medical board fund is established. Pursuant to
6 sections 35-146 and 35-147, the board shall deposit ten per cent of all
7 monies collected under ~~the provisions of~~ this chapter in the state general
8 fund and deposit the remaining ninety per cent in the Arizona medical board
9 fund.

10 B. THE BOARD SHALL ESTABLISH A SEPARATE ACCOUNT IN THE FUND FOR MONIES
11 TRANSFERRED TO THE FUND PURSUANT TO SECTION 32-4305.

12 ~~B.~~ C. Monies deposited in the fund are subject to section 35-143.01.

13 Sec. 2. Title 32, Arizona Revised Statutes, is amended by adding
14 chapter 43, to read:

15 CHAPTER 43

16 SURGICAL ASSISTANTS

17 ARTICLE 1. GENERAL PROVISIONS

18 32-4301. Definitions

19 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

20 1. "ACTIVE LICENSE" MEANS A REGULAR OR TEMPORARY LICENSE ISSUED
21 PURSUANT TO THIS CHAPTER.

22 2. "ADVISORY LETTER" MEANS A NONDISCIPLINARY LETTER TO NOTIFY A
23 SURGICAL ASSISTANT THAT EITHER:

24 (a) WHILE THERE IS INSUFFICIENT EVIDENCE TO SUPPORT DISCIPLINARY
25 ACTION, THE BOARD BELIEVES THAT CONTINUATION OF THE ACTIVITIES THAT LED TO
26 THE INVESTIGATION MAY RESULT IN FURTHER BOARD ACTION AGAINST THE LICENSEE.

27 (b) THE VIOLATION IS A MINOR OR TECHNICAL VIOLATION THAT IS NOT OF
28 SUFFICIENT MERIT TO WARRANT DISCIPLINARY ACTION.

29 (c) WHILE THE LICENSEE HAS DEMONSTRATED SUBSTANTIAL COMPLIANCE THROUGH
30 REHABILITATION OR REMEDIATION THAT HAS MITIGATED THE NEED FOR DISCIPLINARY
31 ACTION, THE BOARD BELIEVES THAT REPETITION OF THE ACTIVITIES THAT LED TO THE
32 INVESTIGATION MAY RESULT IN FURTHER BOARD ACTION AGAINST THE LICENSEE.

33 3. "BOARD" MEANS THE ARIZONA BOARD OF SURGICAL ASSISTANTS.

34 4. "COMPLETED APPLICATION" MEANS AN APPLICATION FOR WHICH THE
35 APPLICANT HAS SUPPLIED ALL REQUIRED FEES, INFORMATION AND CORRESPONDENCE
36 REQUESTED BY THE BOARD ON FORMS AND IN A MANNER ACCEPTABLE TO THE BOARD.

37 5. "DIRECT SUPERVISION" MEANS SUPERVISION BY A SUPERVISING PHYSICIAN
38 WHO IS PHYSICALLY PRESENT AND WHO PERSONALLY DIRECTS DELEGATED ACTS AND
39 REMAINS IMMEDIATELY AVAILABLE TO PERSONALLY RESPOND TO ANY EMERGENCY UNTIL
40 THE PATIENT IS RELEASED FROM THE OPERATING ROOM OR HAS BEEN TRANSFERRED TO
41 THE CARE AND RESPONSIBILITY OF ANOTHER PHYSICIAN.

42 6. "LETTER OF REPRIMAND" MEANS A DISCIPLINARY LETTER THAT IS ISSUED BY
43 THE BOARD AND THAT INFORMS THE SURGICAL ASSISTANT THAT THE SURGICAL
44 ASSISTANT'S CONDUCT VIOLATES STATE OR FEDERAL LAW AND MAY REQUIRE THE BOARD
45 TO MONITOR THE SURGICAL ASSISTANT.

1 7. "MEDICALLY INCOMPETENT" MEANS THAT THE SURGICAL ASSISTANT LACKS
2 SUFFICIENT MEDICAL KNOWLEDGE OR SKILLS, OR BOTH, IN PERFORMING SURGICAL
3 ASSISTING TO A DEGREE LIKELY TO ENDANGER THE HEALTH OR SAFETY OF PATIENTS.

4 8. "PHYSICIAN" MEANS A PHYSICIAN LICENSED PURSUANT TO CHAPTER 13 OR 17
5 OF THIS TITLE.

6 9. "REGULAR LICENSE" MEANS A VALID AND EXISTING LICENSE ISSUED
7 PURSUANT TO THIS CHAPTER TO PERFORM SURGICAL ASSISTING. REGULAR LICENSE DOES
8 NOT INCLUDE A TEMPORARY LICENSE.

9 10. "RESTRICT" MEANS DISCIPLINARY ACTION THAT IS TAKEN BY THE BOARD AND
10 THAT ALTERS A SURGICAL ASSISTANT'S PRACTICE IF THERE IS EVIDENCE THAT THE
11 SURGICAL ASSISTANT IS OR MAY BE MEDICALLY INCOMPETENT OR GUILTY OF
12 UNPROFESSIONAL CONDUCT.

13 11. "SUPERVISING PHYSICIAN" MEANS A PHYSICIAN WHO IS LICENSED PURSUANT
14 TO CHAPTER 13 OR 17 OF THIS TITLE AND WHO ASSUMES RESPONSIBILITY FOR THE
15 SERVICES RENDERED BY THE SURGICAL ASSISTANT.

16 12. "SURGICAL ASSISTANT" MEANS A PERSON WHO IS LICENSED PURSUANT TO
17 THIS CHAPTER AND WHO PERFORMS SURGICAL ASSISTING.

18 13. "SURGICAL ASSISTING" MEANS PROVIDING AID UNDER DIRECT SUPERVISION
19 IN EXPOSURE, HEMATOSIS, CLOSURES AND OTHER INTRAOPERATIVE TECHNICAL FUNCTIONS
20 THAT ASSIST A PHYSICIAN IN PERFORMING A SAFE OPERATION WITH OPTIMAL RESULTS
21 FOR THE PATIENT.

22 14. "UNPROFESSIONAL CONDUCT" INCLUDES THE FOLLOWING ACTS BY A SURGICAL
23 ASSISTANT THAT OCCUR IN THIS STATE OR ELSEWHERE:

24 (a) VIOLATING ANY FEDERAL OR STATE LAW OR RULE THAT APPLIES TO THE
25 PERFORMANCE OF SURGICAL ASSISTING AS A SURGICAL ASSISTANT. CONVICTION IN ANY
26 COURT OF COMPETENT JURISDICTION IS CONCLUSIVE EVIDENCE OF A VIOLATION.

27 (b) CLAIMING TO BE A PHYSICIAN OR KNOWINGLY PERMITTING ANOTHER PERSON
28 TO REPRESENT THAT PERSON AS A PHYSICIAN.

29 (c) PERFORMING SURGICAL ASSISTING TASKS THAT ARE NOT DELEGATED BY THE
30 SUPERVISING PHYSICIAN.

31 (d) HABITUAL INTEMPERANCE IN THE USE OF ALCOHOL OR HABITUAL SUBSTANCE
32 ABUSE.

33 (e) GROSS MALPRACTICE, REPEATED MALPRACTICE OR ANY MALPRACTICE
34 RESULTING IN THE DEATH OF A PATIENT.

35 (f) ANY CONDUCT OR PRACTICE THAT IS OR MIGHT BE HARMFUL OR DANGEROUS
36 TO THE HEALTH OF A PATIENT OR THE PUBLIC.

37 (g) VIOLATING A FORMAL ORDER, PROBATION AGREEMENT OR STIPULATION
38 ISSUED BY THE BOARD OR ITS EXECUTIVE DIRECTOR.

39 (h) PROCURING OR ATTEMPTING TO PROCURE A SURGICAL ASSISTANT LICENSE BY
40 FRAUD, MISREPRESENTATION OR KNOWINGLY TAKING ADVANTAGE OF THE MISTAKE OF
41 ANOTHER.

42 (i) USING CONTROLLED SUBSTANCES THAT HAVE NOT BEEN PRESCRIBED BY A
43 PHYSICIAN, PHYSICIAN ASSISTANT, DENTIST OR NURSE PRACTITIONER FOR USE DURING
44 A PRESCRIBED COURSE OF TREATMENT.

1 (j) KNOWINGLY MAKING ANY WRITTEN OR ORAL FALSE OR FRAUDULENT STATEMENT
2 IN CONNECTION WITH THE PERFORMANCE OF SURGICAL ASSISTING OR WHEN APPLYING FOR
3 PRIVILEGES OR RENEWING AN APPLICATION FOR PRIVILEGES AT A HEALTH CARE
4 INSTITUTION.

5 (k) COMMITTING A FELONY, WHETHER OR NOT INVOLVING MORAL TURPITUDE, OR
6 A MISDEMEANOR INVOLVING MORAL TURPITUDE. IN EITHER CASE, CONVICTION BY A
7 COURT OF COMPETENT JURISDICTION OR A PLEA OF NO CONTEST IS CONCLUSIVE
8 EVIDENCE OF THE COMMISSION.

9 (l) HAVING A CERTIFICATION OR LICENSE REFUSED, REVOKED, SUSPENDED,
10 LIMITED OR RESTRICTED BY ANY OTHER LICENSING JURISDICTION FOR THE INABILITY
11 TO SAFELY AND SKILLFULLY PERFORM SURGICAL ASSISTING OR FOR UNPROFESSIONAL
12 CONDUCT AS DEFINED BY THAT JURISDICTION THAT DIRECTLY OR INDIRECTLY
13 CORRESPONDS TO ANY ACT OF UNPROFESSIONAL CONDUCT AS PRESCRIBED BY THIS
14 PARAGRAPH.

15 (m) HAVING SANCTIONS, INCLUDING RESTRICTION, SUSPENSION OR REMOVAL
16 FROM PRACTICE, IMPOSED BY AN AGENCY OF THE FEDERAL GOVERNMENT.

17 (n) VIOLATING OR ATTEMPTING TO VIOLATE, DIRECTLY OR INDIRECTLY, OR
18 ASSISTING IN OR ABETTING THE VIOLATION OF OR CONSPIRING TO VIOLATE ANY
19 PROVISION OF THIS CHAPTER.

20 (o) FAILING TO FURNISH LEGALLY REQUESTED INFORMATION TO THE BOARD OR
21 ITS INVESTIGATOR IN A TIMELY MANNER.

22 (p) FAILING TO ALLOW PROPERLY AUTHORIZED BOARD PERSONNEL TO EXAMINE ON
23 DEMAND DOCUMENTS, REPORTS AND RECORDS OF ANY KIND RELATING TO THE SURGICAL
24 ASSISTANT'S PERFORMANCE OF SURGICAL ASSISTING.

25 (q) KNOWINGLY MAKING A FALSE OR MISLEADING STATEMENT ON A FORM
26 REQUIRED BY THE BOARD OR IN WRITTEN CORRESPONDENCE OR ATTACHMENTS FURNISHED
27 TO THE BOARD.

28 (r) FAILING TO SUBMIT TO A BODY FLUID EXAMINATION OR OTHER
29 EXAMINATIONS KNOWN TO DETECT THE PRESENCE OF ALCOHOL OR OTHER DRUGS PURSUANT
30 TO AN AGREEMENT WITH THE BOARD OR AN ORDER OF THE BOARD.

31 (s) ALLOWING THE USE OF THE LICENSEE'S NAME IN ANY WAY TO ENHANCE OR
32 PERMIT THE CONTINUANCE OF THE ACTIVITIES OF, OR MAINTAINING A PROFESSIONAL
33 CONNECTION WITH, AN ILLEGAL PRACTITIONER OF MEDICINE OR THE PERFORMANCE OF
34 SURGICAL ASSISTING BY A PERSON WHO IS NOT LICENSED PURSUANT TO THIS CHAPTER.

35 (t) PERFORMING SURGICAL ASSISTING UNDER A FALSE OR ASSUMED NAME IN
36 THIS STATE.

37 32-4302. Arizona board of surgical assistants; membership;
38 appointment; terms; immunity; reimbursement

39 A. THE ARIZONA BOARD OF SURGICAL ASSISTANTS IS ESTABLISHED CONSISTING
40 OF THE FOLLOWING MEMBERS:

41 1. THREE SURGICAL ASSISTANTS WHO HOLD A CURRENT REGULAR LICENSE ISSUED
42 PURSUANT TO THIS CHAPTER AND WHO HAVE AT LEAST FIVE YEARS OF CLINICAL
43 EXPERIENCE AS SURGICAL ASSISTANTS. THE GOVERNOR MAY APPOINT THESE MEMBERS
44 FROM A LIST OF QUALIFIED CANDIDATES SUBMITTED BY A STATEWIDE ASSOCIATION OF
45 NONPHYSICIAN SURGICAL ASSISTANTS. THE GOVERNOR MAY SEEK ADDITIONAL INPUT AND

1 NOMINATIONS BEFORE MAKING THE SURGICAL ASSISTANT APPOINTMENTS. THE INITIAL
2 THREE APPOINTEES ARE NOT REQUIRED TO BE LICENSED PURSUANT TO THIS CHAPTER AT
3 THE TIME OF SELECTION BUT MUST MEET ALL OF THE QUALIFICATIONS FOR LICENSURE
4 AS PRESCRIBED BY THIS CHAPTER.

5 2. TWO PUBLIC MEMBERS APPOINTED BY THE GOVERNOR.

6 3. ONE PHYSICIAN WHO IS LICENSED PURSUANT TO CHAPTER 17 OF THIS TITLE,
7 WHO HAS AT LEAST FIVE YEARS OF EXPERIENCE PRACTICING AS A SURGEON AND WHO IS
8 APPOINTED BY THE GOVERNOR.

9 4. ONE PHYSICIAN WHO IS LICENSED PURSUANT TO CHAPTER 13 OF THIS TITLE,
10 WHO HAS AT LEAST FIVE YEARS OF EXPERIENCE PRACTICING AS A SURGEON AND WHO IS
11 APPOINTED BY THE GOVERNOR.

12 B. BOARD MEMBERS SERVE STAGGERED FOUR YEAR TERMS THAT BEGIN AND END ON
13 JANUARY 1. BOARD MEMBERS SHALL NOT SERVE MORE THAN TWO SUCCESSIVE FOUR YEAR
14 TERMS OR MORE THAN EIGHT CONSECUTIVE YEARS. THE TERM OF OFFICE FOR A MEMBER
15 OF THE BOARD APPOINTED TO FILL A VACANCY THAT OCCURS BEFORE THE EXPIRATION OF
16 A FULL TERM IS FOR THE UNEXPIRED PORTION OF THAT TERM, AND THE GOVERNOR MAY
17 REAPPOINT THAT MEMBER TO NOT MORE THAN TWO ADDITIONAL FULL TERMS.

18 C. A BOARD MEMBER'S TERM AUTOMATICALLY ENDS:

19 1. ON WRITTEN RESIGNATION SUBMITTED TO THE BOARD CHAIRPERSON OR TO THE
20 GOVERNOR.

21 2. IF THE MEMBER IS ABSENT FROM THIS STATE FOR MORE THAN SIX MONTHS
22 DURING A ONE YEAR PERIOD.

23 3. IF THE MEMBER FAILS TO ATTEND THREE CONSECUTIVE REGULAR BOARD
24 MEETINGS.

25 D. BOARD MEMBERS ARE IMMUNE FROM CIVIL LIABILITY FOR ALL GOOD FAITH
26 ACTIONS THEY TAKE PURSUANT TO THIS CHAPTER.

27 E. MEMBERS OF THE BOARD ARE ELIGIBLE FOR REIMBURSEMENT OF EXPENSES
28 PURSUANT TO TITLE 38, CHAPTER 4, ARTICLE 2 TO COVER NECESSARY EXPENSES FOR
29 ATTENDING EACH BOARD MEETING OR FOR REPRESENTING THE BOARD IN AN OFFICIAL
30 BOARD APPROVED ACTIVITY.

31 32-4303. Powers and duties

32 A. THE BOARD SHALL:

33 1. EVALUATE THE QUALIFICATIONS OF APPLICANTS FOR LICENSURE.

34 2. DESIGNATE THE NATIONAL EXAMINATION THAT APPLICANTS ARE REQUIRED TO
35 PASS FOR LICENSURE.

36 3. ISSUE LICENSES TO PERSONS WHO MEET THE REQUIREMENTS OF THIS
37 CHAPTER.

38 4. REGULATE THE PRACTICE OF SURGICAL ASSISTING BY INTERPRETING AND
39 ENFORCING THIS CHAPTER.

40 5. ESTABLISH REQUIREMENTS FOR ASSESSING CONTINUING COMPETENCE OF
41 LICENSEES.

42 6. ADOPT AND REVISE RULES TO ENFORCE THIS CHAPTER.

43 7. MEET AT LEAST SEMIANNUALLY IN COMPLIANCE WITH THE OPEN MEETING
44 REQUIREMENTS OF TITLE 38, ARTICLE 3.1 AND KEEP AN OFFICIAL RECORD OF THESE
45 MEETINGS.

1 8. AT ITS FIRST REGULAR MEETING AFTER THE START OF EACH CALENDAR YEAR,
2 ELECT OFFICERS FROM AMONG ITS MEMBERS AND AS NECESSARY TO ACCOMPLISH BOARD
3 BUSINESS.

4 9. MAINTAIN A CURRENT LIST OF ALL PERSONS REGULATED UNDER THIS
5 CHAPTER. THIS LIST SHALL INCLUDE THE PERSON'S NAME, CURRENT BUSINESS AND
6 RESIDENTIAL ADDRESSES AND TELEPHONE NUMBERS, AND LICENSE NUMBER.

7 10. ENTER INTO CONTRACTS FOR SERVICES NECESSARY FOR ADEQUATE
8 ENFORCEMENT OF THIS CHAPTER.

9 11. PUBLISH, AT LEAST ANNUALLY, FINAL DISCIPLINARY ACTIONS TAKEN
10 AGAINST A LICENSEE.

11 12. PUBLISH, AT LEAST ANNUALLY, BOARD RULINGS, OPINIONS AND
12 INTERPRETATIONS OF STATUTES OR RULES IN ORDER TO GUIDE PERSONS WHO ARE
13 REGULATED PURSUANT TO THIS CHAPTER.

14 13. ON OR BEFORE DECEMBER 31 OF EACH YEAR, SUBMIT A WRITTEN REPORT OF
15 ITS ACTIONS AND PROCEEDINGS TO THE GOVERNOR.

16 14. DIRECT THE PREPARATION AND CIRCULATION OF EDUCATIONAL MATERIAL THE
17 BOARD DETERMINES IS HELPFUL AND PROPER FOR ITS LICENSEES.

18 B. THE BOARD MAY RECEIVE AND REVIEW STAFF REPORTS ON COMPLAINTS,
19 MALPRACTICE CASES AND ALL INVESTIGATIONS.

20 32-4304. Personnel; consultants; compensation; immunity

21 A. THE EXECUTIVE DIRECTOR EMPLOYED BY THE ARIZONA MEDICAL BOARD IS THE
22 EXECUTIVE DIRECTOR OF THE ARIZONA BOARD OF SURGICAL ASSISTANTS. THE STAFF OF
23 THE ARIZONA MEDICAL BOARD SHALL CARRY OUT THE ADMINISTRATIVE RESPONSIBILITIES
24 OF THE ARIZONA BOARD OF SURGICAL ASSISTANTS.

25 B. THE EXECUTIVE DIRECTOR IS ELIGIBLE TO RECEIVE COMPENSATION SET BY
26 THE BOARD WITHIN THE RANGE DETERMINED UNDER SECTION 38-611.

27 C. THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S DESIGNEE SHALL:

28 1. EMPLOY, EVALUATE, DISMISS, DISCIPLINE AND DIRECT PROFESSIONAL,
29 CLERICAL, TECHNICAL, INVESTIGATIVE AND ADMINISTRATIVE PERSONNEL NECESSARY TO
30 CARRY ON THE WORK OF THE BOARD.

31 2. SET COMPENSATION FOR BOARD EMPLOYEES WITHIN THE RANGE DETERMINED
32 UNDER SECTION 38-611.

33 3. AS DIRECTED BY THE BOARD, PREPARE AND SUBMIT RECOMMENDATIONS FOR
34 AMENDMENTS TO THIS CHAPTER FOR CONSIDERATION BY THE LEGISLATURE.

35 4. APPOINT AND EMPLOY MEDICAL CONSULTANTS AND AGENTS NECESSARY TO
36 CONDUCT INVESTIGATIONS, GATHER INFORMATION AND PERFORM THOSE DUTIES THE
37 EXECUTIVE DIRECTOR DETERMINES ARE NECESSARY AND APPROPRIATE TO ENFORCE THIS
38 CHAPTER.

39 5. ISSUE LICENSES TO APPLICANTS WHO MEET THE REQUIREMENTS OF THIS
40 CHAPTER.

41 6. MANAGE THE BOARD'S OFFICES.

42 7. PREPARE MINUTES, RECORDS, REPORTS, REGISTRIES, DIRECTORIES, BOOKS
43 AND NEWSLETTERS AND RECORD ALL BOARD TRANSACTIONS AND ORDERS.

44 8. COLLECT ALL MONIES DUE AND PAYABLE TO THE BOARD.

1 9. PAY ALL BILLS FOR AUTHORIZED EXPENDITURES OF THE BOARD AND ITS
2 STAFF.

3 10. PREPARE AN ANNUAL BUDGET.

4 11. SUBMIT A COPY OF THE BUDGET EACH YEAR TO THE GOVERNOR, THE SPEAKER
5 OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE.

6 12. INITIATE AN INVESTIGATION IF EVIDENCE APPEARS TO DEMONSTRATE THAT A
7 SURGICAL ASSISTANT MAY BE ENGAGED IN UNPROFESSIONAL CONDUCT OR MAY BE
8 MEDICALLY INCOMPETENT OR MENTALLY OR PHYSICALLY UNABLE TO SAFELY PRACTICE AS
9 A SURGICAL ASSISTANT.

10 13. ISSUE SUBPOENAS IF NECESSARY TO COMPEL THE ATTENDANCE AND TESTIMONY
11 OF WITNESSES AND THE PRODUCTION OF BOOKS, RECORDS, DOCUMENTS AND OTHER
12 EVIDENCE.

13 14. PROVIDE ASSISTANCE TO THE ATTORNEY GENERAL IN PREPARING AND SIGN
14 AND EXECUTE DISCIPLINARY ORDERS, REHABILITATIVE ORDERS AND NOTICES OF
15 HEARINGS AS DIRECTED BY THE BOARD.

16 15. ENTER INTO CONTRACTS TO PROCURE GOODS AND SERVICES PURSUANT TO
17 TITLE 41, CHAPTER 23 THAT ARE NECESSARY TO CARRY OUT BOARD POLICIES AND
18 DIRECTIVES.

19 16. EXECUTE BOARD DIRECTIVES.

20 17. REPRESENT THE BOARD IN MATTERS WITH THE FEDERAL GOVERNMENT, OTHER
21 STATES OR JURISDICTIONS OF THE UNITED STATES, THIS STATE, POLITICAL
22 SUBDIVISIONS OF THIS STATE, THE NEWS MEDIA AND THE PUBLIC.

23 18. ENTER INTO STIPULATED AGREEMENTS ON BEHALF OF THE BOARD WITH
24 PERSONS UNDER THE JURISDICTION OF THE BOARD FOR THE TREATMENT, REHABILITATION
25 OR MONITORING OF CHEMICAL SUBSTANCE ABUSE OR MISUSE.

26 19. REVIEW ALL COMPLAINTS FILED PURSUANT TO SECTION 32-4351. IF
27 DELEGATED BY THE BOARD, THE EXECUTIVE DIRECTOR MAY ALSO DISMISS A COMPLAINT
28 IF THE COMPLAINT IS WITHOUT MERIT.

29 20. IF DELEGATED BY THE BOARD, DIRECTLY REFER CASES TO A FORMAL
30 HEARING.

31 21. IF DELEGATED BY THE BOARD, CLOSE CASES RESOLVED THROUGH MEDIATION.

32 22. IF DELEGATED BY THE BOARD, ISSUE ADVISORY LETTERS.

33 23. IF DELEGATED BY THE BOARD, ENTER INTO A CONSENT AGREEMENT IF THERE
34 IS EVIDENCE OF DANGER TO THE PUBLIC HEALTH AND SAFETY.

35 24. IF DELEGATED BY THE BOARD, GRANT UNCONTESTED REQUESTS FOR INACTIVE
36 STATUS AND CANCELLATION OF A LICENSE PURSUANT TO THIS CHAPTER.

37 25. IF DELEGATED BY THE BOARD, REFER CASES TO THE BOARD FOR A FORMAL
38 INTERVIEW.

39 26. PERFORM ALL OTHER ADMINISTRATIVE, LICENSING OR REGULATORY DUTIES
40 REQUIRED BY THE BOARD.

41 D. MEDICAL CONSULTANTS AND AGENTS APPOINTED PURSUANT TO SUBSECTION C,
42 PARAGRAPH 4 OF THIS SECTION ARE ELIGIBLE TO RECEIVE COMPENSATION DETERMINED
43 BY THE EXECUTIVE DIRECTOR IN AN AMOUNT NOT TO EXCEED TWO HUNDRED DOLLARS FOR
44 EACH DAY OF SERVICE.

1 E. A PERSON WHO IS AGGRIEVED BY AN ACTION TAKEN BY THE EXECUTIVE
2 DIRECTOR MAY REQUEST THE BOARD TO REVIEW THAT ACTION BY FILING WITH THE BOARD
3 A WRITTEN REQUEST WITHIN THIRTY DAYS AFTER THAT PERSON IS NOTIFIED OF THE
4 EXECUTIVE DIRECTOR'S ACTION BY PERSONAL DELIVERY, OR IF MAILED TO THAT
5 PERSON'S LAST KNOWN RESIDENCE OR PLACE OF BUSINESS, WITHIN THIRTY-FIVE DAYS
6 AFTER THE DATE ON THE NOTIFICATION. AT THE NEXT REGULAR BOARD MEETING, THE
7 BOARD SHALL REVIEW THE EXECUTIVE DIRECTOR'S ACTION. ON REVIEW, THE BOARD
8 SHALL APPROVE, MODIFY OR REJECT THE EXECUTIVE DIRECTOR'S ACTION.

9 F. BOARD EMPLOYEES, INCLUDING THE EXECUTIVE DIRECTOR, TEMPORARY
10 PERSONNEL AND PROFESSIONAL MEDICAL INVESTIGATORS, ARE IMMUNE FROM CIVIL
11 LIABILITY FOR GOOD FAITH ACTIONS THEY TAKE TO ENFORCE THIS CHAPTER.

12 32-4305. Deposit and use of monies received by the board

13 A. THE BOARD SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147,
14 TEN PER CENT OF ALL MONIES COLLECTED PURSUANT TO THIS CHAPTER IN THE STATE
15 GENERAL FUND AND DEPOSIT THE REMAINING NINETY PER CENT IN A SEPARATE ACCOUNT
16 ESTABLISHED FOR THE ARIZONA BOARD OF SURGICAL ASSISTANTS IN THE ARIZONA
17 MEDICAL BOARD FUND ESTABLISHED BY SECTION 32-1406.

18 B. MONIES DEPOSITED IN THE FUND PURSUANT TO THIS SECTION ARE SUBJECT
19 TO SECTION 35-143.01.

20 ARTICLE 2. LICENSURE

21 32-4321. Persons and activities not required to be licensed;
22 use of title; violation; classification

23 A. THIS CHAPTER DOES NOT APPLY TO:

24 1. A STUDENT WHO IS ENROLLED IN A SURGICAL ASSISTANT EDUCATION PROGRAM
25 APPROVED BY THE BOARD AND WHO IS ASSISTING IN A SURGICAL OPERATION THAT IS AN
26 INTEGRAL PART OF THE PROGRAM OF STUDY. TO BE EXEMPT FROM LICENSURE PURSUANT
27 TO THIS PARAGRAPH, A STUDENT SHALL REGISTER WITH THE BOARD ON A FORM
28 PRESCRIBED BY THE BOARD.

29 2. A SURGICAL ASSISTANT WHO IS EMPLOYED IN THE SERVICE OF THE FEDERAL
30 GOVERNMENT AND WHO PERFORMS SURGICAL ASSISTING DUTIES RELATED TO THAT
31 EMPLOYMENT.

32 3. A HEALTH CARE PROFESSIONAL WHO IS LICENSED PURSUANT TO THIS TITLE
33 AND WHO IS PRACTICING WITHIN THE SCOPE OF THE LICENSE.

34 4. AN INDIVIDUAL WHO IS EMPLOYED BY A HOSPITAL AND WHO IS PERFORMING
35 THE DUTIES OF A SURGICAL ASSISTANT.

36 B. EXCEPT AS PROVIDED IN SUBSECTION A, A PERSON SHALL NOT PRACTICE AS
37 A SURGICAL ASSISTANT UNLESS THE PERSON IS LICENSED PURSUANT TO THIS CHAPTER
38 AND SHALL NOT USE THE TITLE "LICENSED SURGICAL ASSISTANT", THE LETTERS "LSA"
39 OR ANY OTHER WORD, ABBREVIATION, INSIGNIA OR DESIGNATION THAT WOULD IMPLY
40 THAT THE PERSON IS A LICENSED SURGICAL ASSISTANT. A PERSON OR ENTITY THAT
41 VIOLATES THIS SUBSECTION IS GUILTY OF A CLASS 2 MISDEMEANOR.

42 32-4322. Qualifications; examination; exemption

43 A. AN APPLICANT FOR LICENSURE MUST:

44 1. PASS A NATIONAL CERTIFYING EXAMINATION APPROVED BY THE BOARD.

1 2. BE PHYSICALLY AND MENTALLY ABLE TO SAFELY PERFORM SURGICAL
2 ASSISTING.

3 3. NOT HAVE COMMITTED, WITHIN FIVE YEARS PRECEDING THE DATE OF THE
4 APPLICATION, A FELONY, WHETHER OR NOT INVOLVING MORAL TURPITUDE, OR A
5 MISDEMEANOR INVOLVING MORAL TURPITUDE.

6 4. NOT HAVE HAD A LICENSE TO PRACTICE REVOKED BY A REGULATORY BOARD IN
7 ANOTHER JURISDICTION IN THE UNITED STATES FOR AN ACT THAT OCCURRED IN THAT
8 JURISDICTION AND THAT CONSTITUTES UNPROFESSIONAL CONDUCT PURSUANT TO THIS
9 CHAPTER.

10 5. NOT BE CURRENTLY UNDER INVESTIGATION, SUSPENSION OR RESTRICTION BY
11 A REGULATORY BOARD IN ANOTHER JURISDICTION IN THE UNITED STATES FOR AN ACT
12 THAT OCCURRED IN THAT JURISDICTION AND THAT CONSTITUTES UNPROFESSIONAL
13 CONDUCT PURSUANT TO THIS CHAPTER. IF THE APPLICANT IS UNDER INVESTIGATION BY
14 A REGULATORY BOARD IN ANOTHER JURISDICTION, THE BOARD SHALL SUSPEND THE
15 APPLICATION PROCESS AND MAY NOT ISSUE OR DENY A LICENSE TO THE APPLICANT
16 UNTIL THE INVESTIGATION IS RESOLVED.

17 6. NOT HAVE SURRENDERED, RELINQUISHED OR GIVEN UP A LICENSE IN LIEU OF
18 DISCIPLINARY ACTION BY A REGULATORY BOARD IN ANOTHER JURISDICTION IN THE
19 UNITED STATES FOR AN ACT THAT OCCURRED IN THAT JURISDICTION AND THAT
20 CONSTITUTES UNPROFESSIONAL CONDUCT PURSUANT TO THIS CHAPTER.

21 B. THE BOARD MAY EXEMPT AN APPLICANT FOR LICENSURE FROM THE
22 EXAMINATION REQUIREMENTS PRESCRIBED IN SUBSECTION A, PARAGRAPH 1 IF THE
23 APPLICANT MEETS ALL OF THE FOLLOWING REQUIREMENTS:

24 1. IS CERTIFIED AS A SURGICAL ASSISTANT BY A NATIONAL PROFESSIONAL
25 CERTIFICATION ORGANIZATION BEFORE THE EFFECTIVE DATE OF THIS CHAPTER.

26 2. HAS BEEN PRACTICING SURGICAL ASSISTING BEFORE THE EFFECTIVE DATE OF
27 THIS CHAPTER.

28 3. IS OTHERWISE QUALIFIED FOR LICENSURE UNDER THIS CHAPTER.

29 C. THE BOARD MAY:

30 1. REQUIRE AN APPLICANT TO SUBMIT WRITTEN OR ORAL PROOF OF
31 CREDENTIALS.

32 2. CONDUCT INVESTIGATIONS IT DEEMS NECESSARY TO ADVISE ITSELF WITH
33 RESPECT TO THE QUALIFICATIONS OF THE APPLICANT INCLUDING PHYSICAL
34 EXAMINATIONS, MENTAL EVALUATIONS, WRITTEN COMPETENCY EXAMINATIONS OR ANY
35 COMBINATION OF SUCH EXAMINATIONS AND EVALUATIONS.

36 D. THE BOARD MAY DELEGATE TO THE EXECUTIVE DIRECTOR THE AUTHORITY TO
37 DENY LICENSES TO APPLICANTS WHO DO NOT MEET THE REQUIREMENTS OF THIS SECTION.

38 32-4323. Applications; interview; withdrawal; hearing

39 A. EACH APPLICANT MUST FILE A VERIFIED COMPLETED APPLICATION AS
40 PRESCRIBED AND PROVIDED BY THE BOARD. THE APPLICANT MUST INCLUDE WITH THE
41 APPLICATION AN APPLICATION FEE PRESCRIBED BY THE BOARD.

42 B. THE APPLICATION SHALL REQUIRE THE SUBMISSION OF EVIDENCE,
43 CREDENTIALS AND OTHER PROOF NECESSARY TO SATISFY THE BOARD THAT THE APPLICANT
44 QUALIFIES FOR LICENSURE.

45 C. THE APPLICATION SHALL CONTAIN THE OATH OF THE APPLICANT THAT:

1 1. ALL INFORMATION CONTAINED IN THE APPLICATION AND EVIDENCE SUBMITTED
2 WITH IT ARE TRUE AND CORRECT.

3 2. THE CREDENTIALS SUBMITTED WERE NOT PROCURED BY FRAUD OR
4 MISREPRESENTATION OR ANY MISTAKE OF WHICH THE APPLICANT IS AWARE.

5 3. THE APPLICANT IS THE LAWFUL HOLDER OF THE CREDENTIALS.

6 D. AN APPLICATION SUBMITTED TO THE BOARD AND ANY EVIDENCE, CREDENTIALS
7 OR OTHER PROOF SUBMITTED WITH THE APPLICATION ARE THE PROPERTY OF THE BOARD
8 AND PART OF THE PERMANENT RECORD OF THE BOARD AND SHALL NOT BE RETURNED TO AN
9 APPLICANT.

10 E. THE BOARD SHALL PROMPTLY NOTIFY AN APPLICANT, IN WRITING, OF ANY
11 DEFICIENCIES IN THE APPLICATION THAT PREVENT IT FROM BEING A COMPLETED
12 APPLICATION.

13 F. THE BOARD OR ITS REPRESENTATIVES MAY INTERVIEW AN APPLICANT TO
14 DETERMINE WHETHER THE APPLICATION IS SUFFICIENT.

15 G. APPLICATIONS ARE CONSIDERED WITHDRAWN ON THE OCCURRENCE OF ANY OF
16 THE FOLLOWING:

17 1. WRITTEN REQUEST OF THE APPLICANT.

18 2. FAILURE OF THE APPLICANT TO APPEAR FOR AN INTERVIEW WITH THE BOARD
19 UNLESS GOOD CAUSE IS SHOWN.

20 3. FAILURE TO SUBMIT A COMPLETED APPLICATION WITHIN ONE YEAR AFTER THE
21 DATE OF THE MAILING BY THE BOARD OF A STATEMENT TO THE APPLICANT OF THE
22 DEFICIENCIES IN THE APPLICATION PURSUANT TO SUBSECTION E.

23 H. ON REQUEST OF AN APPLICANT WHO DISAGREES WITH THE STATEMENT OF
24 DEFICIENCIES, THE BOARD SHALL GRANT A HEARING BEFORE THE BOARD AT ITS NEXT
25 REGULAR MEETING IF THERE IS TIME AT THAT MEETING TO HEAR THE MATTER. THE
26 BOARD SHALL NOT DELAY THIS HEARING BEYOND ONE REGULARLY SCHEDULED MEETING.
27 AT ANY HEARING GRANTED PURSUANT TO THIS SUBSECTION, THE BURDEN OF PROOF IS ON
28 THE APPLICANT TO DEMONSTRATE THAT THE ALLEGED DEFICIENCIES DO NOT EXIST.

29 I. THE BOARD MAY DENY A LICENSE TO AN APPLICANT WHO DOES NOT MEET THE
30 REQUIREMENTS OF THIS ARTICLE.

31 32-4324. Licensure; renewal; continuing education; expiration

32 A. EACH HOLDER OF A REGULAR LICENSE SHALL RENEW THE LICENSE ON OR
33 BEFORE JUNE 1 OF EACH YEAR BY PAYING THE PRESCRIBED RENEWAL FEE AND SUPPLYING
34 THE BOARD WITH INFORMATION IT DEEMS NECESSARY, INCLUDING PROOF OF HAVING
35 COMPLETED ANY CONTINUING EDUCATION REQUIRED BY THE BOARD.

36 B. IF A HOLDER OF A REGULAR LICENSE FAILS TO RENEW THE LICENSE ON OR
37 BEFORE JULY 1 OF EACH YEAR, THAT PERSON MUST PAY THE PRESCRIBED PENALTY FEE
38 FOR A LATE RENEWAL AS A CONDITION OF LICENSURE RENEWAL.

39 C. IF A HOLDER OF A REGULAR LICENSE FAILS TO RENEW THE LICENSE ON OR
40 BEFORE OCTOBER 1 OF EACH YEAR, THE LICENSE EXPIRES. IT IS UNLAWFUL FOR A
41 PERSON TO PERFORM SURGICAL ASSISTING AFTER THE PERSON'S LICENSE EXPIRES.

42 D. A PERSON WHOSE LICENSE EXPIRES MAY REAPPLY FOR LICENSURE PURSUANT
43 TO THIS ARTICLE.

44 E. IF A LICENSEE DOES NOT MEET THE REQUIREMENTS OF SUBSECTION A
45 BECAUSE OF THAT PERSON'S ILLNESS, MILITARY SERVICE, RELIGIOUS MISSIONARY

1 ACTIVITY OR RESIDENCE IN A FOREIGN COUNTRY OR ANY OTHER EXTENUATING
2 CIRCUMSTANCE, THE BOARD MAY GRANT AN EXTENSION OF THE DEADLINE IF IT RECEIVES
3 A WRITTEN REQUEST TO DO SO FROM THE LICENSEE THAT DETAILS THE REASONS FOR
4 THIS REQUEST.

5 32-4325. Temporary licensure

6 A. THE BOARD MAY ISSUE A TEMPORARY LICENSE TO AN APPLICANT WHO MEETS
7 ALL THE QUALIFICATIONS PRESCRIBED IN SECTION 32-4322, SUBSECTION A, WHO
8 SUBMITS EVIDENCE TO THE BOARD THAT THE APPLICANT IS ELIGIBLE TO TAKE THE
9 CERTIFYING EXAMINATION AND WHO PAYS THE PRESCRIBED APPLICATION FEE. THE
10 APPLICANT MUST HAVE THE NATIONAL CERTIFYING ORGANIZATION SUBMIT TO THE BOARD
11 A LETTER THAT VERIFIES THE APPLICANT'S REGISTRATION TO SIT FOR THE SURGICAL
12 ASSISTANT NATIONAL CERTIFYING EXAMINATION.

13 B. A TEMPORARY LICENSE IS EFFECTIVE FOR A TERM OF NOT MORE THAN
14 SIXTEEN MONTHS AND EXPIRES ON THE OCCURRENCE OF ANY OF THE FOLLOWING:

- 15 1. ISSUANCE OF A REGULAR LICENSE.
- 16 2. FAILURE TO PASS THE CERTIFYING EXAMINATION.
- 17 3. EXPIRATION OF THE TERM FOR WHICH THE TEMPORARY LICENSE WAS ISSUED.

18 C. THE BOARD SHALL NOT ISSUE A TEMPORARY LICENSE TO AN APPLICANT WHO
19 HAS FAILED THE NATIONAL CERTIFYING EXAMINATION.

20 D. A SURGICAL ASSISTANT WHO HOLDS A TEMPORARY LICENSE MUST HAVE THE
21 NATIONAL CERTIFYING ORGANIZATION SUBMIT VERIFICATION DIRECTLY TO THE BOARD OF
22 THAT PERSON'S SUCCESSFUL PASSAGE OR FAILURE OF THE NATIONAL CERTIFYING
23 EXAMINATION.

24 32-4326. Fees

25 A. THE BOARD SHALL ESTABLISH NONREFUNDABLE FEES AND PENALTIES THAT DO
26 NOT EXCEED THE FOLLOWING:

- 27 1. FOR PROCESSING AN APPLICATION FOR AN ACTIVE LICENSE, FIVE HUNDRED
28 DOLLARS.
- 29 2. FOR ISSUING AN ACTIVE LICENSE, FIVE HUNDRED DOLLARS.
- 30 3. FOR AN APPLICATION FOR A TEMPORARY LICENSE, ONE HUNDRED FIFTY
31 DOLLARS.
- 32 4. FOR CONVERSION FROM A TEMPORARY LICENSE TO A REGULAR LICENSE, FOUR
33 HUNDRED DOLLARS.
- 34 5. FOR ANNUAL RENEWAL OF A REGULAR LICENSE, FIVE HUNDRED DOLLARS.
- 35 6. FOR LATE RENEWAL OF A REGULAR LICENSE, FOUR HUNDRED FIFTY DOLLARS.
- 36 7. FOR ISSUANCE OF A DUPLICATE LICENSE, TWENTY-FIVE DOLLARS.
- 37 8. FOR VERIFICATION OF A LICENSE, TEN DOLLARS.
- 38 9. FOR COPYING RECORDS, DOCUMENTS, LETTERS, MINUTES, APPLICATIONS AND
39 FILES, ONE DOLLAR FOR THE FIRST THREE PAGES AND TWENTY-FIVE CENTS FOR EACH
40 ADDITIONAL PAGE.
- 41 10. FOR THE SALE OF COMPUTERIZED TAPES OR DISKETTES THAT DO NOT REQUIRE
42 PROGRAMMING, ONE HUNDRED DOLLARS.
- 43 11. FOR SERVICES NOT REQUIRED TO BE PROVIDED BY THIS CHAPTER BUT THAT
44 THE BOARD DEEMS APPROPRIATE TO CARRY OUT THE INTENT AND PURPOSE OF THIS
45 CHAPTER, THE ACTUAL COST OF PROVIDING THE SERVICES. NOTWITHSTANDING SECTION

1 32-4305, THE BOARD SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, ALL
2 OF THE MONIES COLLECTED PURSUANT TO THIS PARAGRAPH IN THE ARIZONA MEDICAL
3 BOARD FUND ESTABLISHED BY SECTION 32-1406.

4 B. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, ON WRITTEN REQUEST
5 THE BOARD MAY RETURN THE LICENSE RENEWAL FEE FOR GOOD CAUSE SHOWN.

6 C. THE BOARD MAY COLLECT FROM A DRAWER OF A DISHONORED CHECK, DRAFT,
7 ORDER OR NOTE AN AMOUNT ALLOWED PURSUANT TO SECTION 44-6852.

8 32-4327. Change of address; penalty

9 A. A PERSON WHO HOLDS AN ACTIVE LICENSE AS A SURGICAL ASSISTANT IN
10 THIS STATE MUST INFORM THE BOARD IN WRITING WITHIN THIRTY DAYS OF THAT
11 PERSON'S CURRENT RESIDENCE ADDRESS, OFFICE ADDRESS AND TELEPHONE NUMBER AND
12 OF EACH CHANGE IN RESIDENCE AND OFFICE ADDRESS OR TELEPHONE NUMBER THAT
13 OCCURS. A RESIDENTIAL ADDRESS IS NOT AVAILABLE TO THE PUBLIC UNLESS IT IS
14 THE ONLY ADDRESS OF RECORD.

15 B. THE BOARD MAY ASSESS ITS COSTS INCURRED IN LOCATING A SURGICAL
16 ASSISTANT WHO FAILS TO COMPLY WITH SUBSECTION A OF THIS SECTION WITHIN THIRTY
17 DAYS AFTER THE DATE OF CHANGE. THE BOARD MAY ALSO ASSESS A PENALTY OF NOT
18 MORE THAN ONE HUNDRED DOLLARS AGAINST THE SURGICAL ASSISTANT.
19 NOTWITHSTANDING SECTION 32-4305, MONIES COLLECTED PURSUANT TO THIS SUBSECTION
20 SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE ARIZONA
21 MEDICAL BOARD FUND ESTABLISHED BY SECTION 32-1406.

22 32-4328. Inactive license; application; prohibited activities

23 A. A PERSON WHO HOLDS A REGULAR LICENSE PURSUANT TO THIS CHAPTER MAY
24 REQUEST AN INACTIVE LICENSE FROM THE BOARD IF BOTH OF THE FOLLOWING APPLY:

- 25 1. THE LICENSEE IS NOT UNDER INVESTIGATION BY THE BOARD.
26 2. THE BOARD HAS NOT BEGUN DISCIPLINARY PROCEEDINGS AGAINST THE
27 LICENSEE.

28 B. THE BOARD MAY GRANT AN INACTIVE LICENSE AND SHALL WAIVE THE ANNUAL
29 RENEWAL FEE AND REQUIREMENTS FOR CONTINUING MEDICAL EDUCATION IF THE PERSON
30 CERTIFIES TOTAL RETIREMENT FROM THE PERFORMANCE OF SURGICAL ASSISTING IN THIS
31 STATE, ANY JURISDICTION OF THE UNITED STATES AND ANY FOREIGN COUNTRY AND IS
32 CURRENT ON ALL FEES REQUIRED BY THIS CHAPTER.

33 C. A LICENSEE WHO PERFORMS SURGICAL ASSISTING WHILE HOLDING AN
34 INACTIVE LICENSE VIOLATES THIS CHAPTER BY PERFORMING SURGICAL ASSISTING
35 WITHOUT A LICENSE.

36 D. THE BOARD MAY CONVERT AN INACTIVE LICENSE TO A REGULAR LICENSE ON
37 PAYMENT OF THE ANNUAL RENEWAL FEE AND PRESENTATION OF EVIDENCE TO THE BOARD
38 THAT THE HOLDER POSSESSES THE MEDICAL KNOWLEDGE AND THE PHYSICAL AND MENTAL
39 ABILITY TO SAFELY ENGAGE IN THE PERFORMANCE OF SURGICAL ASSISTING. THE BOARD
40 MAY REQUIRE ANY COMBINATION OF PHYSICAL EXAMINATION, PSYCHIATRIC OR
41 PSYCHOLOGICAL EVALUATION, ORAL COMPETENCY EXAMINATION OR A BOARD QUALIFIED
42 WRITTEN EXAMINATION OR INTERVIEW IT BELIEVES NECESSARY TO ASSIST IT IN
43 DETERMINING THE ABILITY OF A SURGICAL ASSISTANT WHO HOLDS AN INACTIVE LICENSE
44 TO RETURN TO REGULAR LICENSURE.

ARTICLE 3. REGULATION

32-4351. Grounds for disciplinary action: duty to report: immunity; proceedings; board action; notice; civil penalty

A. THE BOARD ON ITS OWN MOTION MAY INVESTIGATE ANY EVIDENCE THAT APPEARS TO SHOW THAT A SURGICAL ASSISTANT IS OR MAY BE MEDICALLY INCOMPETENT, IS OR MAY BE GUILTY OF UNPROFESSIONAL CONDUCT OR IS OR MAY BE MENTALLY OR PHYSICALLY UNABLE TO CARRY OUT APPROVED SURGICAL ASSISTING. ANY PHYSICIAN, SURGICAL ASSISTANT OR HEALTH CARE INSTITUTION AS DEFINED IN SECTION 36-401 MUST, AND ANY OTHER PERSON MAY, REPORT TO THE BOARD ANY INFORMATION THE PHYSICIAN, SURGICAL ASSISTANT, HEALTH CARE INSTITUTION OR OTHER PERSON HAS THAT APPEARS TO SHOW THAT A SURGICAL ASSISTANT IS OR MAY BE MEDICALLY INCOMPETENT, IS OR MAY BE GUILTY OF UNPROFESSIONAL CONDUCT OR IS OR MAY BE MENTALLY OR PHYSICALLY UNABLE TO CARRY OUT APPROVED SURGICAL ASSISTING. THE BOARD OR THE EXECUTIVE DIRECTOR SHALL NOTIFY THE SURGICAL ASSISTANT OF THE CONTENT OF THE REPORTED INFORMATION IN WRITING WITHIN ONE HUNDRED TWENTY DAYS OF ITS RECEIPT OF THE INFORMATION. ANY PHYSICIAN, SURGICAL ASSISTANT, HEALTH CARE INSTITUTION OR OTHER PERSON THAT REPORTS OR PROVIDES INFORMATION TO THE BOARD IN GOOD FAITH IS NOT SUBJECT TO AN ACTION FOR CIVIL DAMAGES AS A RESULT OF REPORTING OR PROVIDING INFORMATION. IF REQUESTED, THE NAME OF THE REPORTER SHALL NOT BE DISCLOSED UNLESS THE INFORMATION IS ESSENTIAL TO PROCEEDINGS CONDUCTED PURSUANT TO THIS SECTION.

B. THE BOARD OR, IF DELEGATED BY THE BOARD, THE EXECUTIVE DIRECTOR MAY REQUIRE A MENTAL, PHYSICAL OR MEDICAL COMPETENCY EXAMINATION OR ANY COMBINATION OF THOSE EXAMINATIONS OR MAY MAKE INVESTIGATIONS, INCLUDING INVESTIGATIONAL INTERVIEWS BETWEEN REPRESENTATIVES OF THE BOARD AND THE SURGICAL ASSISTANT AND THE SUPERVISING PHYSICIAN, AS IT DEEMS NECESSARY TO FULLY INFORM ITSELF WITH RESPECT TO ANY INFORMATION REPORTED PURSUANT TO SUBSECTION A OF THIS SECTION. THESE EXAMINATIONS MAY INCLUDE BIOLOGICAL FLUID TESTING AND OTHER EXAMINATIONS KNOWN TO DETECT THE PRESENCE OF ALCOHOL OR OTHER DRUGS. THE BOARD OR, IF DELEGATED BY THE BOARD, THE EXECUTIVE DIRECTOR MAY REQUIRE THE SURGICAL ASSISTANT, AT THE SURGICAL ASSISTANT'S EXPENSE, TO UNDERGO ASSESSMENT BY A BOARD APPROVED REHABILITATIVE, RETRAINING OR ASSESSMENT PROGRAM.

C. IF THE BOARD FINDS, BASED ON THE INFORMATION IT RECEIVES UNDER SUBSECTIONS A AND B OF THIS SECTION, THAT THE PUBLIC SAFETY REQUIRES EMERGENCY ACTION AND INCORPORATES A FINDING TO THAT EFFECT IN ITS ORDER, THE BOARD MAY RESTRICT A LICENSE OR ORDER A SUMMARY SUSPENSION OF A LICENSE PENDING PROCEEDINGS FOR REVOCATION OR OTHER ACTION. IF THE BOARD ACTS PURSUANT TO THIS SUBSECTION, THE SURGICAL ASSISTANT SHALL BE SERVED WITH A WRITTEN NOTICE OF COMPLAINT AND FORMAL HEARING, SETTING FORTH THE CHARGES, AND IS ENTITLED TO A FORMAL HEARING BEFORE THE BOARD OR AN ADMINISTRATIVE LAW JUDGE ON THE CHARGES WITHIN SIXTY DAYS PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10.

1 D. IF, AFTER COMPLETING ITS INVESTIGATION, THE BOARD FINDS THAT THE
2 INFORMATION PROVIDED PURSUANT TO SUBSECTION A OF THIS SECTION IS NOT OF
3 SUFFICIENT SERIOUSNESS TO MERIT DISCIPLINARY ACTION AGAINST THE SURGICAL
4 ASSISTANT'S LICENSE, IT MAY TAKE THE FOLLOWING ACTIONS:

5 1. DISMISS IF, IN THE OPINION OF THE BOARD, THE COMPLAINT IS WITHOUT
6 MERIT.

7 2. FILE AN ADVISORY LETTER. THE LICENSEE MAY FILE A WRITTEN RESPONSE
8 WITH THE BOARD WITHIN THIRTY DAYS AFTER RECEIVING THE ADVISORY LETTER.

9 E. IF THE BOARD FINDS THAT IT CAN TAKE REHABILITATIVE OR DISCIPLINARY
10 ACTION WITHOUT THE PRESENCE OF THE SURGICAL ASSISTANT AT A FORMAL INTERVIEW,
11 IT MAY ENTER INTO A CONSENT AGREEMENT WITH THE SURGICAL ASSISTANT TO RESTRICT
12 THE SURGICAL ASSISTANT'S PRACTICE OR TO REHABILITATE THE SURGICAL ASSISTANT,
13 PROTECT THE PUBLIC AND ENSURE THE SURGICAL ASSISTANT'S ABILITY TO SAFELY
14 PRACTICE. THE BOARD MAY ALSO REQUIRE THE SURGICAL ASSISTANT TO SUCCESSFULLY
15 COMPLETE A BOARD APPROVED REHABILITATIVE, RETRAINING OR ASSESSMENT PROGRAM AT
16 THE SURGICAL ASSISTANT'S OWN EXPENSE.

17 F. THE BOARD SHALL NOT DISCLOSE THE NAME OF THE PERSON WHO PROVIDED
18 THE INFORMATION REGARDING A LICENSEE'S DRUG OR ALCOHOL IMPAIRMENT OR THE NAME
19 OF THE PERSON WHO FILES A COMPLAINT IF THAT PERSON REQUESTS ANONYMITY.

20 G. IF, AFTER COMPLETING ITS INVESTIGATION, THE BOARD BELIEVES THAT THE
21 INFORMATION MAY BE OF SUFFICIENT SERIOUSNESS TO MERIT DIRECT ACTION AGAINST
22 THE SURGICAL ASSISTANT'S LICENSE, IT MAY REQUEST A FORMAL INTERVIEW WITH THE
23 SURGICAL ASSISTANT AND THE SUPERVISING PHYSICIAN. IF THE SURGICAL ASSISTANT
24 REFUSES THE REQUEST FOR A FORMAL INTERVIEW, THE BOARD MAY ISSUE A FORMAL
25 COMPLAINT AND ORDER THAT A HEARING BE HELD PURSUANT TO TITLE 41, CHAPTER 6,
26 ARTICLE 10. THE BOARD SHALL NOTIFY THE SURGICAL ASSISTANT IN WRITING OF THE
27 TIME, DATE AND PLACE OF THE FORMAL INTERVIEW AT LEAST TWENTY DAYS BEFORE THE
28 INTERVIEW. THE NOTICE SHALL INCLUDE THE RIGHT OF THE SURGICAL ASSISTANT TO
29 BE REPRESENTED BY COUNSEL AND SHALL FULLY SET FORTH THE CONDUCT OR MATTERS TO
30 BE DISCUSSED.

31 H. AFTER THE FORMAL INTERVIEW, THE BOARD MAY TAKE THE FOLLOWING
32 ACTIONS:

33 1. DISMISS IF, IN THE OPINION OF THE BOARD, THE INFORMATION IS WITHOUT
34 MERIT.

35 2. FILE AN ADVISORY LETTER. THE LICENSEE MAY FILE A WRITTEN RESPONSE
36 WITH THE BOARD WITHIN THIRTY DAYS AFTER RECEIVING THE ADVISORY LETTER.

37 3. ENTER INTO A STIPULATION WITH THE SURGICAL ASSISTANT TO RESTRICT
38 THE SURGICAL ASSISTANT'S PRACTICE OR TO REHABILITATE, RETRAIN OR ASSESS THE
39 SURGICAL ASSISTANT, PROTECT THE PUBLIC AND ENSURE THE SURGICAL ASSISTANT'S
40 ABILITY TO SAFELY PERFORM SURGICAL ASSISTING. THE BOARD MAY ALSO REQUIRE THE
41 SURGICAL ASSISTANT TO SUCCESSFULLY COMPLETE A BOARD APPROVED REHABILITATIVE,
42 RETRAINING OR ASSESSMENT PROGRAM AT THE SURGICAL ASSISTANT'S OWN EXPENSE.

43 4. FILE A LETTER OF REPRIMAND.

44 5. ISSUE A DECREE OF CENSURE. A DECREE OF CENSURE IS A DISCIPLINARY
45 ACTION AGAINST THE SURGICAL ASSISTANT'S LICENSE.

1 6. FIX A PERIOD AND TERMS OF PROBATION BEST ADAPTED TO PROTECT THE
2 PUBLIC HEALTH AND SAFETY AND REHABILITATE OR EDUCATE THE SURGICAL ASSISTANT.
3 FAILURE BY THE SURGICAL ASSISTANT TO COMPLY WITH ANY TERM OF PROBATION IS
4 CAUSE FOR INITIATING FORMAL PROCEEDINGS PURSUANT TO TITLE 41, CHAPTER 6,
5 ARTICLE 10. PROBATION MAY INCLUDE:

6 (a) RESTRICTIONS ON THE SURGICAL ASSISTING THE SURGICAL ASSISTANT MAY
7 PERFORM.

8 (b) TEMPORARY SUSPENSION FOR NOT MORE THAN TWELVE MONTHS.

9 (c) EDUCATION OR REHABILITATION AT THE LICENSEE'S OWN EXPENSE.

10 I. IF THE BOARD FINDS THAT THE INFORMATION PROVIDED PURSUANT TO
11 SUBSECTION A OF THIS SECTION WARRANTS SUSPENSION OR REVOCATION OF A SURGICAL
12 ASSISTANT'S LICENSE, IT SHALL IMMEDIATELY INITIATE FORMAL PROCEEDINGS FOR THE
13 SUSPENSION OR REVOCATION OF THE LICENSE AS PROVIDED IN TITLE 41, CHAPTER 6,
14 ARTICLE 10. THE NOTICE OF COMPLAINT AND HEARING IS EFFECTIVE BY MAILING A
15 COPY OF THE NOTICE OF COMPLAINT AND HEARING BY CERTIFIED MAIL TO THE SURGICAL
16 ASSISTANT'S LAST KNOWN ADDRESS OF RECORD IN THE BOARD'S FILES. THE NOTICE OF
17 COMPLAINT AND HEARING IS COMPLETE AT THE TIME OF ITS DEPOSIT IN THE MAIL.

18 J. A SURGICAL ASSISTANT WHO AFTER A FORMAL HEARING PURSUANT TO TITLE
19 41, CHAPTER 6, ARTICLE 10 IS FOUND TO BE MEDICALLY INCOMPETENT, GUILTY OF
20 UNPROFESSIONAL CONDUCT OR MENTALLY OR PHYSICALLY UNABLE TO SAFELY PERFORM
21 SURGICAL ASSISTING, OR ANY COMBINATION OF THESE, IS SUBJECT TO CENSURE OR
22 PROBATION OR SUSPENSION OR REVOCATION OF THE LICENSE, OR ANY COMBINATION OF
23 THESE, FOR A PERIOD OF TIME OR PERMANENTLY AND UNDER CONDITIONS THE BOARD
24 DEEMS APPROPRIATE FOR THE PROTECTION OF THE PUBLIC HEALTH AND SAFETY.

25 K. IN A FORMAL INTERVIEW PURSUANT TO SUBSECTION G OF THIS SECTION OR
26 IN A HEARING PURSUANT TO SUBSECTION I OF THIS SECTION, THE BOARD, IN ADDITION
27 TO ANY OTHER ACTION, MAY IMPOSE A CIVIL PENALTY OF AT LEAST THREE HUNDRED
28 DOLLARS BUT NOT MORE THAN TEN THOUSAND DOLLARS FOR EACH VIOLATION OF THIS
29 CHAPTER OR A RULE ADOPTED UNDER THIS CHAPTER.

30 L. AN ADVISORY LETTER IS A PUBLIC DOCUMENT AND MAY BE USED IN FUTURE
31 DISCIPLINARY ACTIONS AGAINST A SURGICAL ASSISTANT.

32 M. THE BOARD MAY CHARGE THE COSTS OF A FORMAL HEARING TO THE LICENSEE
33 IF IT FINDS THE LICENSEE IN VIOLATION OF THIS CHAPTER.

34 N. IF DURING THE COURSE OF AN INVESTIGATION THE BOARD DETERMINES THAT
35 A CRIMINAL VIOLATION MAY HAVE OCCURRED INVOLVING THE PERFORMANCE OF SURGICAL
36 ASSISTING, IT MUST PROVIDE EVIDENCE OF THE VIOLATION TO THE APPROPRIATE
37 CRIMINAL JUSTICE AGENCY.

38 O. THE BOARD MAY ACCEPT THE SURRENDER OF AN ACTIVE LICENSE FROM A
39 PERSON WHO ADMITS IN WRITING TO ANY OF THE FOLLOWING:

40 1. BEING UNABLE TO SAFELY PERFORM SURGICAL ASSISTING.

41 2. HAVING COMMITTED AN ACT OF UNPROFESSIONAL CONDUCT.

42 3. HAVING VIOLATED THIS CHAPTER OR A BOARD RULE.

43 P. IN DETERMINING THE APPROPRIATE DISCIPLINARY ACTION UNDER THIS
44 SECTION, THE BOARD SHALL CONSIDER ALL PREVIOUS NONDISCIPLINARY AND
45 DISCIPLINARY ACTIONS AGAINST A LICENSEE.

32-4352. Right to examine and copy evidence; subpoena
authority; right to counsel; confidentiality of
records

A. IN CONNECTION WITH AN INVESTIGATION CONDUCTED BY THE BOARD ON ITS OWN MOTION OR AS THE RESULT OF INFORMATION RECEIVED PURSUANT TO SECTION 32-4351, THE BOARD OR ITS DULY AUTHORIZED AGENT OR EMPLOYEE AT ALL REASONABLE TIMES SHALL HAVE ACCESS TO, FOR THE PURPOSE OF EXAMINATION, AND THE RIGHT TO COPY ANY DOCUMENTS, REPORTS, RECORDS OR OTHER PHYSICAL EVIDENCE OF ANY PERSON BEING INVESTIGATED OR THE REPORTS, THE RECORDS AND ANY OTHER DOCUMENTS MAINTAINED BY AND IN THE POSSESSION OF ANY HOSPITAL, PHYSICIAN'S OFFICE, SURGICAL ASSISTANT'S OFFICE, HEALTH CARE INSTITUTION AS DEFINED IN SECTION 36-401 OR OTHER PUBLIC OR PRIVATE AGENCY IF THE DOCUMENTS, REPORTS, RECORDS OR EVIDENCE RELATE TO A SURGICAL ASSISTANT'S MEDICAL COMPETENCE, UNPROFESSIONAL CONDUCT OR MENTAL OR PHYSICAL ABILITY TO SAFELY ENGAGE IN SURGICAL ASSISTING.

B. FOR THE PURPOSE OF ALL INVESTIGATIONS AND PROCEEDINGS CONDUCTED BY THE BOARD:

1. ON ITS OWN MOTION OR ON APPLICATION OF A PERSON INVOLVED IN AN INVESTIGATION, THE BOARD MAY ISSUE SUBPOENAS COMPELLING THE ATTENDANCE AND TESTIMONY OF WITNESSES OR DEMANDING THE PRODUCTION OF DOCUMENTS OR ANY OTHER PHYSICAL EVIDENCE FOR EXAMINATION OR COPYING IF THE EVIDENCE RELATES TO THE MEDICAL INCOMPETENCE, UNPROFESSIONAL CONDUCT OR MENTAL OR PHYSICAL ABILITY OF A SURGICAL ASSISTANT TO SAFELY PERFORM SURGICAL ASSISTING. WITHIN FIVE DAYS AFTER SERVICE OF A SUBPOENA REQUIRING THE PRODUCTION OF EVIDENCE IN THE PERSON'S POSSESSION OR UNDER THE PERSON'S CONTROL, THE PERSON MAY PETITION THE BOARD TO REVOKE, LIMIT OR MODIFY THE SUBPOENA. THE BOARD SHALL DO SO IF IT BELIEVES THAT THE EVIDENCE REQUIRED DOES NOT RELATE TO VIOLATIONS OF THIS CHAPTER, IS NOT RELEVANT TO THE SUBJECT MATTER OF THE HEARING OR INVESTIGATION OR DOES NOT DESCRIBE WITH SUFFICIENT PARTICULARITY THE PHYSICAL EVIDENCE REQUESTED.

2. A PERSON APPEARING BEFORE THE BOARD MAY BE REPRESENTED BY COUNSEL.

3. A BOARD MEMBER OR AGENT DESIGNATED BY THE BOARD MAY ADMINISTER OATHS OR AFFIRMATIONS, EXAMINE WITNESSES AND RECEIVE EVIDENCE.

4. ON APPLICATION BY THE BOARD OR BY THE PERSON SUBPOENAED, THE SUPERIOR COURT HAS JURISDICTION TO ISSUE AN ORDER TO DO EITHER OF THE FOLLOWING:

(a) REQUIRE A PERSON TO APPEAR BEFORE THE BOARD OR ITS AUTHORIZED AGENT TO PRODUCE EVIDENCE RELATING TO THE INVESTIGATION.

(b) REVOKE, LIMIT OR MODIFY A SUBPOENA IF THE COURT DETERMINES THAT THE EVIDENCE DOES NOT RELATE TO A VIOLATION OF THIS CHAPTER, IS NOT RELEVANT TO THE HEARING OR INVESTIGATION OR DOES NOT DESCRIBE WITH SUFFICIENT PARTICULARITY THE PHYSICAL EVIDENCE REQUESTED.

C. THE FOLLOWING ITEMS ARE NOT AVAILABLE TO THE PUBLIC:

1. PATIENT RECORDS, INCLUDING CLINICAL RECORDS, MEDICAL REPORTS AND LABORATORY STATEMENTS AND REPORTS.

1 2. FILES, FILMS, REPORTS OR ORAL STATEMENTS RELATING TO DIAGNOSTIC
2 FINDINGS OR TREATMENT OF PATIENTS.

3 3. ANY INFORMATION FROM WHICH A PATIENT OR THE PATIENT'S FAMILY MIGHT
4 BE IDENTIFIED.

5 4. INFORMATION RECEIVED AND RECORDS KEPT BY THE BOARD IN ITS
6 INVESTIGATIONS.

7 D. THIS SECTION AND ANY OTHER PROVISION OF LAW THAT MAKES
8 COMMUNICATIONS BETWEEN A PHYSICIAN AND PATIENT A PRIVILEGED COMMUNICATION DO
9 NOT APPLY TO INVESTIGATIONS OR PROCEEDINGS CONDUCTED PURSUANT TO THIS
10 CHAPTER. THE BOARD AND ITS EMPLOYEES, AGENTS AND REPRESENTATIVES SHALL KEEP
11 IN CONFIDENCE THE NAMES OF ANY PATIENTS WHOSE RECORDS ARE REVIEWED DURING THE
12 COURSE OF INVESTIGATIONS AND PROCEEDINGS PURSUANT TO THIS CHAPTER.

13 E. HOSPITAL RECORDS, MEDICAL STAFF RECORDS, MEDICAL STAFF REVIEW
14 COMMITTEE RECORDS, TESTIMONY CONCERNING THOSE RECORDS AND PROCEEDINGS RELATED
15 TO THE CREATION OF THOSE RECORDS ARE NOT AVAILABLE TO THE PUBLIC, SHALL BE
16 KEPT CONFIDENTIAL BY THE BOARD AND ARE SUBJECT TO THE SAME PROVISIONS OF LAW
17 CONCERNING DISCOVERY AND USE IN LEGAL ACTIONS AS ARE THE ORIGINAL RECORDS IN
18 THE POSSESSION AND CONTROL OF HOSPITALS, MEDICAL STAFFS AND MEDICAL STAFF
19 REVIEW COMMITTEES.

20 32-4353. Judicial review

21 EXCEPT AS PROVIDED IN SECTION 41-1092.08, SUBSECTION H, FINAL DECISIONS
22 OF THE BOARD ARE SUBJECT TO JUDICIAL REVIEW PURSUANT TO TITLE 12, CHAPTER 7,
23 ARTICLE 6.

24 Sec. 3. Title 41, chapter 27, article 2, Arizona Revised Statutes, is
25 amended by adding section 41-3017.01, to read:

26 41-3017.01. Arizona board of surgical assistants: termination
27 July 1, 2017

28 A. THE ARIZONA BOARD OF SURGICAL ASSISTANTS TERMINATES ON JULY 1,
29 2017.

30 B. TITLE 32, CHAPTER 43 IS REPEALED ON JANUARY 1, 2018.

31 Sec. 4. Initial terms of members of Arizona board of surgical
32 assistants

33 A. Notwithstanding section 32-4302, Arizona Revised Statutes, as added
34 by this act, the initial terms of members of the Arizona board of surgical
35 assistants are:

- 36 1. One term ending January 1, 2009.
- 37 2. Two terms ending January 1, 2010.
- 38 3. Two terms ending January 1, 2011.
- 39 4. Two terms ending January 1, 2012.

40 B. The governor shall make all subsequent appointments as prescribed
41 by statute.

1 Sec. 5. Purpose

2 Pursuant to section 41-2955, subsection E, Arizona Revised Statutes,
3 the legislature establishes the Arizona board of surgical assistants to
4 promote the safe practice of surgical assisting by qualified professionals.

5 Sec. 6. Requirements for enactment: two-thirds vote

6 Pursuant to article IX, section 22, Constitution of Arizona, this act
7 is effective only on the affirmative vote of at least two-thirds of the
8 members of each house of the legislature and is effective immediately on the
9 signature of the governor or, if the governor vetoes this act, on the
10 subsequent affirmative vote of at least three-fourths of the members of each
11 house of the legislature.